

### **REMARKS**

Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

#### **Status of the Claims**

Claims 11, 13 and 15-17 are pending. Claims 1-10 and 18-23 have been withdrawn from consideration. Claims 12 and 14 have been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 11 and 13 have been amended. No new matter has been added.

#### **Rejections under 35 U.S.C. § 103**

Claims 11-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,913,588 of Weitzel et al. (“Weitzel”) in view of U.S. Published Application No. 2002/0077581 of Davidner et al. (“Davidner”). Claims 12 and 14 have been canceled, thus, rendering the rejection moot with respect to claims 12 and 14.

The Examiner contends that Weitzel discloses most of the features of independent claim 11 and dependent claim 12. However, the Examiner acknowledges that Weitzel fails to disclose an oxygenation device. The Examiner relies on Davidner as disclosing an oxygenation device and means designed to control the introduction of oxygen into the blood. Detailed Office Action, page 3 (*citing* Davidner, ¶0014 and Fig. 2). The Examiner contends that a combination of Weitzel and Davidner render independent claim 11 and dependent claim 12 obvious. The Examiner further contends that Weitzel, column 6, lines 30-59, discloses means designed to

measure the hematocrit and the partial pressure of the oxygen present in the blood, as recited in dependent claim 14.

Applicants respectfully submit that Weitzel, column 6, lines 30-59, describes a flow monitor 14 that measures blood flow rate in the intake and outflow lines, so that close regulation of the pump rates for intake pump 4 and outflow pump 6 can be achieved. Weitzel, column 6, lines 30-39. Further, Weitzel describes that a pressure monitor 26 measures blood pressure and/or ultrafiltrate pressure within internal portions of the treatment device 20. Weitzel, column 6, lines 40-42.

Applicants submit that Davidner describes an extracorporeal fluid circuit that includes a data acquisition and control interface 203 which exchanges signals with the circuit 201. A microprocessor 206 is connected to the control interface 203 to exchange information therebetween. The microprocessor 206 receives the appropriate operational information such as pump speeds, pressures and temperatures from the data acquisition and control interface 203. The microprocessor supplies appropriate information such as pump and clamp voltages to operate the electromechanical devices in the extracorporeal fluid circuits to the circuit 201 for controlling the operation of the pumps and clamps of the extracorporeal fluid circuit. A timer 204 receives inputs to monitor the state of operation of the computer 206 and the interface 203. If the inputs are outside preset limits, the timer 204 acts to stop the function of pumps and clamps by selectively enabling/disabling a power supply 202. Davidner, ¶¶ 0045-49, Fig. 2.

Independent claim 11 has now been amended to recite "a control device configured to provide feedback control so as to regulate a quantity of oxygen provided to the oxygenation

device; and the control device further configured to measure hematocrit and a partial pressure of molecular oxygen in the blood in extracorporeal circulation.” Support for this amendment can be found in original claims 12 and 14 and the Specification at, for example, page 12, lines 22-28. It is respectfully submitted that a combination of Weitzel and Davidner fails to disclose, or suggest, a control device that provides feedback to regulate a quantity of oxygen provided to an oxygenation device and that measures hematocrit and molecular oxygen pressure in the blood in extracorporeal circulation, as recited in amended independent claim 11.

In contrast, Weitzel merely describes a flow monitor 14 that measures blood flow rate for close regulation of intake pump 4 and outflow pump 6, and a pressure monitor 26 that measures blood pressure and/or ultrafiltrate pressure. Weitzel, column 6, lines 30-39 and 40-42. Additionally, Davidner merely describes an oxygenator 14 and a circuit 201 that stops the function of pumps and clamps by enabling/disabling a power supply 202. Davidner, ¶¶0045-49.

Accordingly, Applicants submit that a combination of Weitzel and Davidner, to the extent proper, could not render amended independent claim 11, nor dependent claims 13 and 15-17, obvious.

Reconsideration and withdrawal of the rejection of claims 11, 13 and 15-17 under 35 U.S.C. § 103(a) as being unpatentable over Weitzel in view of Davidner is respectfully requested.

**CONCLUSION**

In view of the foregoing it is believed that remaining claims 11, 13 and 15-17 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

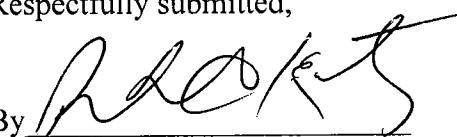
If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

The Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this submission, or to credit any overpayment, to Deposit Account No. 04-0100.

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Respectfully submitted,

By

  
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